

HELLERSTEIN & COMPANY

December 19, 2021

VIA ECF

The Honorable Ona T. Wang
United States Magistrate Judge
United States District Court for the Southern District of New York
Daniel Patrick Moynihan Courthouse
500 Pearl Street
New York, NY 10007

Re: In re Application of Vale S.A. et al., No. 20-mc-199-JGK-OTW

Dear Judge Wang:

In response to Jeffrey A. Rosenthal's letter dated December 17, 2021, we note the following:

The Meet and Confer

On December 16, 2021, the parties held a Meet and Confer via conference call, as ordered by Your Honor. Mr. Rosenthal was absent from the call and provided no excuse. Following the Meet and Confer, the parties resolved that counsel to Vale would set out in an email any remaining open issues. We responded substantively to all items raised in that email and made it clear to Vale counsel that we intend to be cooperative and answer all their relevant discovery queries. Unfortunately, Mr. Rosenthal did not make himself available for the Meet and Confer and is now raising items never discussed or considered to be resolved by the parties.

Organizational Chart

In the December 2, 2021 Joint Letter to the Court and in Mr. Rosenthal's December 17th letter, Mr. Rosenthal accused my client's sole director, Gregg Blackstock, of "doctoring" Perfectus's organizational chart because Mr. Blackstock produced an organizational chart that differed from an organizational chart previously produced by a third party in connection with a separate proceeding. We told Vale counsel that Mr. Blackstock produced what he believes to be an accurate statement of Perfectus's organizational structure, although it differs from the chart in Vale's possession. Mr. Blackstock also produced the inaccurate organizational chart and drew a conspicuous blue rectangle over the inaccurate section of that chart and replaced it with an accurate description. Indeed, Mr. Rosenthal himself admits that one can clearly see what the blue rectangle is intended to cover, meaning no one is being deceived. Mr. Blackstock's modification of the chart, rather than intending to deceive, actually corrected a deceiving chart. Mr. Rosenthal has yet to provide any basis for his allegation and has refused to modify the term "doctor".

Delay in Production

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A glaring example of Mr. Rosenthal's twisting our words, in the course of what we thought were supposed to be good-faith discussions, is his assertion that I "confessed that nobody ran search terms on Mr. Blackstock's files." That is false. I told Vale counsel on several occasions that Mr. Blackstock performed and continues to perform searches on his computer using relevant search terms. Perhaps if Mr. Rosenthal had participated in the Meet and Confer call, he would have his facts straight.

We have continued to respond to all of Cleary's requests for clarification, thus deeming a deposition unnecessary. The demand for a deposition is just a further attempt to intimidate me, badger Mr. Blackstock and force us to use resources we don't have. Despite the non-collegial environment created by Mr. Rosenthal, we remain committed to cooperate in the discovery process and help Vale counsel obtain all responsive, discoverable documents.

Sincerely,

Joseph Z. Hellerstein
Joseph Z. Hellerstein